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Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the
District of

Division

4:20 CV 909

Case No.

(to be filled in by the Clerk's Office)

RA Vaughn L. Cummings Pro Se

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Ohio Department of Rehabilitation and Correction -v- Mike W. Wylie

Richard A. Bowen JR

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

JUDGE PEARSON

MAG. JUDGE BURKE

FILED

APR 27 2020

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELANDCOMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

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I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name
All other names by which
you have been known:
ID Number
Current Institution
AddressRa'Vaughn L. Cummings
A. 702-564
Ohio State Penitentiary
878 Coitsville - Hubbard RD.
Youngstown Ohio 44505
City State Zip Code**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name
Job or Title (if known)
Shield Number
Employer
AddressRichard A. Bowen JR
WARDEN
OHIO State Penitentiary
878 Coitsville - Hubbard RD.
Youngstown Ohio 44505
City State Zip Code
☒ Individual capacity ☐ Official capacity

Defendant No. 2

Name
Job or Title (if known)
Shield Number
Employer
AddressMike W. Wylie
Investigator
OHIO State Penitentiary
878 Coitsville - Hubbard RD.
Youngstown Ohio 44505
City State Zip Code
☒ Individual capacity ☐ Official capacity

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Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

Ohio Department of Rehabilitation and Correction

4545 Fisher Rd.

Columbus

City

Ohio

State

43228

Zip Code

☐ Individual capacity☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐ Individual capacity☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials? negligent for failing to provide safety restraints in the van. Breached a duty owed to prisoner, and that this breach proximately caused injury. The state owes a common law duty of reasonable care and protection from unreasonable risks.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

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- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed. The Ohio Department of Rehabilitation and Correction owes a duty to provide safety restraints to prisoners being transported in a van while restrained in handcuffs, a belly band and leg irons. The defendants breached a duty owed to prisoners, and that this breach proximately caused a injury.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain)

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

Stop sign by route 616, Youngstown Ohio

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

N/A

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C. What date and approximate time did the events giving rise to your claim(s) occur?

October 21, 2019 - Incident Time 8:35 AM

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

On 10-21-19 Mike W. Wylie was driving vehicle 13-1524 along with Linda S. Bowen, AS the chase behind vehicle 13-625 driven by Dale P. Boyer and Crystal Stroud and I Ravaghn Cummings, in route to Mahoning County Court. Mr Boyer was the driver of van 13-625 when he was hit from behind by Mr. Wylie driver of car 13-1524, AS the transport trip was in route to Mahoning County. I Mr Cummings came flying out my seat and hit my back on a steel barrier.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Lower back pain from hitting my back on the steel barrier, it hurts when I walk, bend down, and when I lay down. The pain keeps me up all night, I needed a wheelchair couldn't walk was in so much pain. Medical gave me Ibuprofen for pain, and a X-ray was taken on 10-22-2019. I seen medical over ten times for back pain, the nurse practitioner told me she have orders from higher up not to help me. I wrote multiple informal complaints about medical not treating me per Policy. osp was so scared of a Law suit that they didn't do anything about my health.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes.

If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims. I want the courts to hold the defendants accountable for pain and suffering, negligence, and breach of duty owed to prisoners. I want 10,000 for pain and suffering which is that breach caused injuries. I want 15,000 for physical discomfort, and distress, and mental and emotional trauma, using me physical discomfort, and distress, and mental and emotional trauma, I want 15,000 for loss of ability to perform my usual functions. And I want 15,000 for negligence, corrections department was negligent in failing to provide prisoner with safety restraints, because my injuries were reasonably foreseeable, and corrections department breached a duty to provide prisoner with safe transportation.

Total 25,000.

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VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Ohio State Penitentiary

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes☐ No☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes☒ No☐ Do not know

If yes, which claim(s)?

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Ohio State Penitentiary

2. What did you claim in your grievance?

Investigator Wylie crashed into the back of the van and caused my back injury. There were no seat belts in the van. The accident violated my rights, and Investigator Wylie should be held accountable.

3. What was the result, if any?

Denied - Insufficient evidence to support claim

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I sent three different appeals to the chief inspector's office on December 31, 2019, January 8, 2020, and on February 17, 2020. And I never got a decision or a disposition back from the chief inspector's office. I am sending you a copy of my grievance and all my appeals.

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. I filed a informal complaint, then I filed a grievance, and then I filed a appeal. In that order, but the administrative failed to do anything.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

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A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition.

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

City

State

Zip Code

Ra'Vaughn Cummings #702-564

Ohio State Penitentiary
878 Coitsville-Hubbard Road
Youngstown, Ohio 44505
DRC 1614

Office of The Clerk
United States District Court
Northern District of Ohio
801 West Superior Ave
Cleveland, Ohio 44113